

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

GLENN RICHARD UNDERWOOD,

Debtor.

GLENN RICHARD UNDERWOOD, *pro se*,

Plaintiff,

vs.

PATRICIA SELENT, *pro se*, et al.,

Defendants.

Case No. 06-55754

Chapter 11

Judge Thomas J. Tucker

Adv. Pro. No. 14-4966

**ORDER DENYING PLAINTIFF GLEN R. UNDERWOOD'S MOTION TO REQUEST
A TIME EXTENSION FOR PATRICIA SELENT, ATTORNEY GENE KOHUT,
CHARLES UNDERWOOD AND LYNDA CARTO TO RESPOND TO PLAINTIFF'S
REQUESTS FOR PRODUCTION OF DOCUMENTS AND FOR COMPLETING
DEPOSITIONS**

This case is before the Court on a motion filed on April 21, 2015 by Plaintiff, entitled "Plaintiff Glen R. Underwood's Motion to Request a Time Extension for Patricia Selent, Attorney Gene Kohut, Charles Underwood and Lynda Carto to Respond to Plaintiff's 'Requests for Production of Documents' and for Completing Depositions" (Docket # 142, the "Motion"). The Motion seeks an order extending the time for Defendants Patricia Selent, Attorney Gene Kohut, Charles Underwood and Lynda Carto to answer Plaintiff's requests for production of documents (the "Requests") from May 1, 2015 to May 15, 2015. And the Motion seeks an extension of time from May 1, 2015 to June 1, 2015, to complete depositions. The May 1, 2015 discovery deadline was set by the Court's Adversary Proceeding Scheduling Order, entered on December 22, 2014 (Docket # 74, the "Scheduling Order")

Defendant Gene R. Kohut ("Kohut") filed a response to the Motion (Docket # 148, the "Response"), in which he argues that the Motion should be denied, because (1) Plaintiff's Requests are untimely, and therefore, he is not required to respond to such Requests; and Plaintiff has not demonstrated good cause to modify the Scheduling Order.

The Court concludes that a hearing on the Motion is not necessary and that the Motion should be denied for the following reasons.

The Scheduling Order states, in relevant part: “(a) All discovery, including any depositions of experts, must be commenced in time to be completed by May 1, 2015.” (Scheduling Or. at 1 ¶ I.(a).) Under Fed. R. Civ. P. 34(b)(2)(A), made applicable to adversary proceedings under Fed. R. Bankr. P. 7034, a party has 30 days after service to respond to a request for the production of documents, unless the parties stipulate to a shorter or longer time or the court enters an order lengthening or shortening the 30 day time period. Plaintiff served Kohut with the Requests on April 10, 2015. (*See* Docket # 138.) Under Fed. R. Civ. P. 34(b)(2)(A), Kohut had until May 13, 2015 to respond to the Requests. *See* Fed. R. Bankr. P. 9006(a)(1), 9006(f), ECF P. 12(f). But that response deadline fell well after the May 1, 2015 discovery-completion deadline. Therefore, Plaintiff did not serve the requests in time to complete discovery by May 1, 2015, as required by the Scheduling Order. The same is true of Plaintiff’s document requests served on the other defendants.

And the Motion has not alleged any facts that demonstrate “good cause” to modify the Scheduling Order. *See* Fed. R. Civ. P. 16(b)(4) made applicable to adversary proceedings by Fed. R. Bankr. P. 7016 (“A schedule may be modified only for good cause and with the judge’s consent.”). The Motion states only that Plaintiff did not meet the deadlines “due partly to [P]laintiff’s inability to prepare the documents sooner as a result of several medical issues affecting both plaintiff and his wife, over a 2-1/2 month period.” (Docket # 142 at 1.) The Motion does not explain why the Plaintiff with diligence could not complete discovery by the deadlines in the Scheduling Order, given the facts that the Scheduling Order was entered more than 4 months ago, and Plaintiff has been able to file a plethora of other pleadings after the Scheduling Order was entered. *See Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002)(“The primary measure of Rule 16’s “good cause” standard is the moving party’s diligence in attempting to meet the case management order’s requirements.”).

Accordingly,

IT IS ORDERED that the Motion (Docket # 142) is denied in its entirety.

Signed on May 18, 2015

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge